

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 11-27-01.
 - b. The request was received on 5-16-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFAs
 - c. EOBs
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to Request for Medical Dispute Resolution
 - b. HCFAs
 - c. EOBs
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 6-18-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 6-19-02. The response from the insurance carrier was received in the Division on 7-2-02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by Requestor, is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 2-7-02:

"This claim is being resubmitted for reconsideration due to the payments on the claims being paid inconsistently. According to our payment records date of service 11/21/2001 in the amount of \$490.00, we were paid only \$154.74 leaving a balance of \$335.26 and were not paid at the Full Billed [sic] amount.

This claim is being resubmitted because we billed for the 'PURCHASE' of a MC Walker w/ankle joint Torsion Control leaving an unpaid balance. This item should not have been reduced. We fell [sic] that you have processed this claim in error. The D.M.E. Fee Guideline clearly shows that the allowable for purchase is the reasonable we billed for on the HCFA-1500.... We the provider are billing this equipment at a Fair and Reasonable amount there for [sic] the claim should not be reduced."

2. Respondent: Letter dated 7-1-02:
"A review of the relevant information indicates the Provider seeks additional reimbursement for a MC Walker with Ankle Joint Torsion Control provided to the Claimant on November 7, 2001. The total amount billed was \$490. The Respondent audited the bills and reduced them to \$154.74. The total amount in dispute is \$335.26. Should the Requestor be dissatisfied with the payment, the burden lies upon the Requestor/Provider to show that the amount of reimbursement requested is fair and reasonable. The Requestor has failed to meet this burden.... In order to demonstrate the reasonableness of a bill, the Requestor must provide evidence that the amounts charged achieve effective medical cost control, take into account payments made to others with an equivalent standard of living, and consider the increased security of payment.... Respondent asserts that the Requestor should state the specific reasons it believe [sic] it is entitled, under the statutory standards, to specific amounts of additional reimbursements, including the formula or formulae it asserts are required for calculating the additional amount of reimbursements it is seeking. The burden lies upon the Requestor to demonstrate the amount of reimbursement it received from the Respondent was neither fair nor reasonable and was not in accordance with the requirements of the Texas Labor Code."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 11-27-01.
2. The carrier denied the billed services as reflected on the EOBs as, "M-NO MAR, REDUCED TO FAIR & REASONABLE; D – DENIAL AFTER RECONSIDERATION".
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
11-27-01	L2375	\$490.00	\$154.74	M,D	DOP	Rule 133.307 (g) (3) (D), (E); Section 413.011 (d); HCPCS descriptor	<p>The carrier has denied the disputed equipment as, "M-NO MAR, REDUCED TO FAIR & REASONABLE; D – DENIAL AFTER RECONSIDERATION".</p> <p>Section 413.011 states, "Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf."</p> <p>The provider failed to support its position that the fees charged were fair and reasonable as required by Rule 133.307 (g) (3) (D) which states, "if the dispute involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1 of this title..."</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. As the requestor, the health care provider has the burden to prove that the fees paid were not fair and reasonable. The provider has failed to discuss, demonstrate and/or justify that the payment being sought is fair and reasonable.</p> <p>Therefore, no additional reimbursement is recommended</p>
Totals		\$490.00	\$154.74				The Requestor is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 24th day of February 2003.

Lesia Lenart
Medical Dispute Resolution Officer
Medical Review Division

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